

THE
CIVIL CODE
OF THE
HAWAIIAN ISLANDS,

PASSED IN THE YEAR OF OUR LORD
1859:

TO WHICH IS ADDED
AN APPENDIX,

CONTAINING
LAWS NOT EXPRESSLY REPEALED BY THE CIVIL
CODE; THE SESSION LAWS OF 1858-9; AND
TREATIES WITH FOREIGN NATIONS.

PUBLISHED BY AUTHORITY.

HONOLULU:
PRINTED FOR THE GOVERNMENT.
1859.

EXHIBIT 45

ARTICLE I.—OF THE GOVERNMENT LANDS AND OTHER PROPERTY.

SECTION 39. The Minister of the Interior shall have the charge, custody, and supervision of all the lands surrendered and forever made over unto the chiefs and people by His late Majesty, Kamehameha III., the surrender and conveyance of which was solemnly accepted, and confirmed by an Act of the Legislature, passed on the 7th day of June, A. D. 1848; and also of all other government lands, buildings, vessels, and property whatsoever not expressly placed in the charge of some other officer.

SECTION 40. The said minister shall be accountable for the preservation and safe keeping of the government property, and it shall be his duty to prosecute any person injuring, trespassing upon, or wrongfully taking the same, such as land, timber, streams, ponds, springs, water-courses, reservoirs, water-works, reefs, harbors, channels, wharves, lights, buoys, beacons, highways, bridges, markets, buildings, vessels, and other government property of whatsoever kind or nature.

SECTION 41. The said minister, under the direction and with the approval of the King in Cabinet Council, shall have power to purchase lots upon which to erect public buildings, and other lands for the use of harbors, highways, wharves, water-works, and other internal improvements; also any other property necessary for the public service; and to pay for the same in such manner as the King in Cabinet Council shall direct—provided always, that the whole amount of existing debt incurred for the purchase of such lands or property, shall at no time exceed the sum of twenty-five thousand dollars; and provided further, that no moneys specifically appropriated by the Legislature for any other object, shall be applied to the discharge of the debt incurred as hereinbefore provided.

SECTION 42. The said minister, by and with the authority of the

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King in Cabinet Council, shall have power to lease, sell, or otherwise dispose of the public lands, and other property, in such manner as he may deem best for the promotion of agriculture and the general welfare of the kingdom, subject, however, to such restrictions as may from time to time be expressly provided by law.

SECTION 43. A Royal Patent, signed by the King, and countersigned by the Kuhina Nui and the Minister of the Interior, shall issue under the great Seal of the kingdom to the purchaser in fee simple of any government land or other real estate; and also to any holder of an award from the Board of Commissioners to quiet land titles for any land in which he may have commuted the government rights.

SECTION 44. All Royal patents, leases, grants, or other conveyances of any government land or real estate, shall be prepared by, and issued from, the Department of the Interior; and it shall be the duty of the Minister of the Interior to keep a full and faithful record of all such patents, leases, grants and other conveyances. Said record shall be open to public inspection, and he shall furnish a certified copy, under his official seal, of any instrument therein recorded, to any person applying therefor, upon being paid at the rate of fifty cents for every one hundred words. Every such certified copy shall be received as evidence in any judicial court of the kingdom, the same as the original instrument itself.

SECTION 45. It shall be the duty of the Minister of the Interior to cause such surveys, maps, and plans of the government lands, harbors, and internal improvements to be made as the public interests may require; which surveys, maps and plans shall be kept in his office for public inspection and reference.

SECTION 46. The Minister of the Interior may appoint suitable agents throughout the kingdom, for the management and sale of government lands, which agents shall be paid a reasonable compensation for their services, in the discretion of said Minister, out of the proceeds of their sales or other avails arising from such lands. It shall be the duty of such agents to report to the Minister of the Interior all trespasses committed by any person upon the government lands in their charge.

SECTION 47. Every such agent shall procure the lands sold by him

to be correctly surveyed; and he shall not forward any such survey to the Minister of the Interior to obtain a Royal patent to be executed for the land sold, until the purchaser shall have first deposited in the hands of such agent the purchase money of said land, and the costs of the survey.

SECTION 48. The Minister of the Interior is prohibited from selling the water ponds, springs and streams belonging to the government in or near Honolulu; that is to say, the pond of Kunawai, in the Ili of Kunawai; and the ponds of Kumuhahane and Kalaupalolo, in the Ili of Alewa, and all other government water ponds, springs and streams, wherever situated, which may be valuable for public use; and any sale in contravention of this section shall be absolutely null and void.

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CHAPTER X.

DEPARTMENT OF PUBLIC INSTRUCTION.

OF THE BOARD OF EDUCATION.

SECTION 693. There shall be an executive department, to be styled the Department of Public Instruction, which shall be superintended and directed by a Board of Education, consisting of a president and two directors, who shall be appointed by the King, shall reside at the seat of government, and shall hold office during the King's pleasure.

SECTION 694. Said Board shall have entire charge and control of the Department of Public Instruction; shall superintend the execution of all laws relating thereto; shall have the power to make its own by-laws, not in contravention of the laws of this kingdom; shall keep regular records of its proceedings, and make a full report, through its president, of the business and transactions of the department to the Legislature, at each regular session thereof.

Two members present at any regular meeting, shall constitute a quorum for business.

SECTION 695. For the purposes of this chapter, the said Board shall possess the powers and privileges of a corporation.

SECTION 696. Said Board may, from time to time, adopt rules for the internal regulation and government of the public schools, and schools supported by government, not inconsistent with any law of this kingdom, and such rules, when duly made known, shall be obligatory, in all respects, upon both teachers and scholars.

OF THE PRESIDENT.

SECTION 697. The President of said Board shall keep an office at the seat of government, and sign all official documents of the Board, in order to their validity. He shall use his best exertions to promote the interests of education and morality throughout the kingdom, and the general objects of the department; and shall receive such salary as the Legislature shall determine. The other members of the Board shall receive no compensation for their services.

SECTION 698. The President of said Board shall be authorized to employ a clerk to assist him in the discharge of his duties, whose salary shall be such as the Legislature may, from time to time, determine.

SECTION 699. The seal of the Department of Public Instruction shall be such as may be approved by the Board of Education, and copies of all documents belonging to said Board, certified by the President, and impressed with such seal, shall be as valid evidence in any court, as the originals.

SECTION 700. The President of said Board shall, from time to time; make a tour of the respective islands, to inquire into the condition of the schools supported or aided by government; to instruct the school-officers and teachers in regard to their duties under the law, and urge them to the faithful performance of the same; to awaken an interest among parents for the education of their children, in knowledge and virtue; to hold public examinations of schools; and when in his estimation the merits of any pupil or teacher warrant it, he may, by way of special encouragement, give such pupil or teacher a certificate of honor, or such premium as shall be authorized by the Board of Education.

SECTION 701. The President of said Board shall, from time to time, address circular directions approved by the Board, to the respective school superintendents of the several districts, defining their duties; in-

structing them how to act in concert with the school-teachers and trustees; upon what points of education to examine candidates for teachers' license, and how such examination shall be conducted; when to consider any such teacher fit for his office; what studies are to be pursued in the government schools, and to what extent; how to make the returns required of them, prescribing the form, and transmitting the blanks for such returns; how to draw upon the school-treasurer for the support of teachers and other school purposes, and how to account to him for the amounts drawn; how, and at what prices, to account to him for the sale of books and stationery, supplied from his department; how, and for what causes to suspend teachers; when, and for how long vacations from study may be granted; and generally to instruct them on any subject connected with his department, and which the Board of Education may direct.

SECTION 702. The President of the Board of Education is hereby authorized to bind out, under proper indentures, vicious children convicted of any crime or misdemeanor, to persons of good character, who shall teach them the rudiments of knowledge, some useful trade or employment, protect their morals, and become responsible for the payment of their fines.

OF THE COMMON SCHOOLS.

SECTION 703. The object of the common schools supported by government, is to instruct the children of the nation in good morals, and in the rudiments of reading, writing, geography, arithmetic, and of other kindred elementary branches; and it shall be the duty of all school officers, parents, magistrates, police officers, and ministers of the Gospel, throughout the kingdom, to aid in effecting this object.

SECTION 704. For the purposes of education, the kingdom is divided into school districts, the boundaries of which are the same as those of the taxation districts; that is to say, the Island of Hawaii shall be